

REMARKS

Claims 11-17 are all the claims pending in the application. Claim 11 has been amended for purposes of clarity.

Applicants respectfully submit that with the entry of the proposed amendments, the present application will be in condition for allowance.

Accordingly, entry of the above amendments is respectfully requested.

Initially, again, the Examiner is respectfully requested to acknowledge Applicants' claim to priority under 35 U.S.C. §119, and confirm receipt of the priority document, which was filed in parent application no. 08/726,170.

In addition, Examiner is respectfully requested to return an initialed and signed copy of the Form-1449 filed on August 21, 2001.

I. Response to rejection of Claims 11-17 Under 35 U.S.C. § 112, second paragraph

On page 2 of the Office Action, claims 11-17 are rejected under 35 U.S.C. § 112, second paragraph as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention.

Basically, the Examiner asserts that the claim requires reflection of light at a measured wavelength and having no influence on reflected light, and that it is not clear how any light can be reflected at a measured wavelength or not influence other reflected light if all the light is absorbed.

Applicants respectfully traverse and respond as follows.

Claim 11 recites that “at least a portion of said cover covering the detecting area is of a color which one of reflects an amount of light at a measured wavelength, and fully absorbs light at a measured wavelength, such that said color has substantially no influence on the reflected light”. Accordingly, the color is one that reflects an amount of light or fully absorbs light and since the color either reflects light or absorbs light, the color has substantially no influence on the reflected light.

As recited in claim 11, black is a color that absorbs light and therefore has substantially no influence on the reflected light. See page 10 of the present specification. Therefore, one of skill in the art would understand the meaning and scope of the claim because the color is one that either reflects light or absorbs light, and that black is a color that fully absorbs light and substantially has no influence on the reflected light. However, Applicants have amended claim 11 to recite that “at least a portion of said cover covering the detecting area is black” for purposes of clarity.

In view of the above, it is respectfully submitted that the foregoing rejection has been overcome, and withdrawal of the rejection is respectfully requested.

II. Response to rejection of claims 11-17 under 35 U.S.C. § 102(a)

On page 2 of the Office Action, claims 11-17 are rejected under 35 U.S.C. § 102(a) as being anticipated by Applicants’ admitted prior art on page 6 of the specification in reference to JP ‘065. Basically, the Examiner’s position is the same as that set forth in the previous Office Action.

Applicants respectfully traverse and respond as follows.

The present specification discloses that EP '068 discloses the *basic* structure of the present invention. EP '068 does not disclose the color of the covering and does not disclose a covering wherein at least a portion of the cover covering the detecting area is of the color black. Therefore, the disclosure at page 6 of the present specification that "This cover is of a color which substantially has no influence on the reflected light as a measured wavelength. . ." is directed to the cover of the present invention, not EP '068.

In this regard, Applicants submit again that that EP '068 corresponds to JP '065, and therefore the disclosure of EP '068 and JP '065 is the same. In addition, an English translation of JP '065 is submitted herewith, to show that JP '065 does not disclose the color of the cover. Therefore, EP '068 and JP '065 do not disclose the color of the covering, and the disclosure at page 6 is not directed to the structure/disclosure of EP '068 or JP '065.

In view of the above, it is respectfully submitted that EP '068 and JP '065 fail to teach or suggest the present invention since both references do not disclose the color of the cover, particularly that a portion of the cover is black.

Accordingly, withdrawal of the foregoing rejection is respectfully requested.

III. Conclusion

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone

AMENDMENT UNDER 37 C.F.R. § 1.116
U.S. Appln. No. 09/933,000

Attorney Docket Q65805

interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,



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APPENDIX

VERSION WITH MARKINGS TO SHOW CHANGES MADE

IN THE CLAIMS:

The claims are amended as follows:

11. (amended) A test apparatus for assaying a component in a liquid sample by measuring a reflected light, comprising:

a support defining an upper side and a lower side and having one of a through hole and a light permeable area,

a reagent layer defining an upper side and a lower side and having a detecting area, the reagent layer being fixed on the upper side of the support to cover one of the through hole and light permeable area, and

a cover including a lower side facing the reagent layer and which covers at least the detecting area,

wherein at least a portion of said cover covering the detecting area is [of a color which one of reflects an amount of light at a measured wavelength, and fully absorbs light at a measured wavelength, such that said color has substantially no influence on the reflected light at the measured wavelength;

wherein said color is] black; and

wherein said reflected light is measured from the lower side of both the reagent layer and the cover.